

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
HUNTINGTON DIVISION

CHRISTOPHER FAIN and SHAUNTAE ANDERSON, individually and on behalf of all others similarly situated,

Plaintiffs,

v.

WILLIAM CROUCH, *et al.*,

Defendants.

CIVIL ACTION NO. 3:20-cv-00740
HON. ROBERT C. CHAMBERS

**ORDER GRANTING PLAINTIFFS'
MOTION FOR ATTORNEYS' FEES
AND EXPENSES AND SUPPLEMENTAL
MOTION FOR FEES AND COSTS**

The above matter came before this Court upon Plaintiffs' contested Motion for Attorneys' Fees and Expenses (ECF No. 284) and Supplemental Motion for Attorneys' Fees and Costs (ECF No. 303). The Court, having previously judged Plaintiffs and the Class to be the prevailing party, which judgment was affirmed by the Court of Appeals for the Fourth Circuit, directed the parties to confer about resolving the pending motions. The parties have done so and have reached agreement, which they submitted to the Court in the form of a proposed order. Having reviewed the parties' filings in this matter and the proposed order, it is hereby ORDERED:

1. Plaintiff's Motion for Attorneys' Fees and Expenses and Supplemental Motion for Attorneys' Fees and Costs is GRANTED, subject to the conditions as further explained below.
2. Defendants shall pay Plaintiffs eight-hundred and twenty-five thousand dollars (\$825,000) in attorneys' fees and costs (with costs taxed by the Clerk of Court encompassed therein, ECF No. 307) within the time and only under the circumstances set forth below.

3. Plaintiffs shall be permitted to seek additional attorneys' fees and costs associated with their time and costs incurred after the filing of their Supplemental Motion for Attorneys' Fees and Costs within the time and only under the circumstances set forth below.

4. Because Defendants have filed a Petition for a Writ of Certiorari, Defendants shall pay attorneys' fees and costs at the time specified under the following circumstances:

4.1. If the Supreme Court (a) denies Defendants' pending Petition for a Writ of Certiorari; or (b) grants Defendants' pending Petition for a Writ of Certiorari and affirms judgment in Plaintiffs' favor on all claims appealed, then:

4.1.1. The parties shall have thirty (30) days from the date this case is returned to the District Court or otherwise closed at the appellate level to reach agreement on any attorneys' fees and costs in addition to the \$825,000. If the parties reach agreement, they shall submit a proposed order to the Court that includes the \$825,000 amount, the additional agreed upon amount, and the agreed upon payment deadline.

4.1.2. If the parties cannot reach agreement as specified in Paragraph 4.1.1. above, then within thirty (30) days from the date this case is returned to the District Court or otherwise closed at the appellate level, Defendants shall pay Plaintiffs \$825,000 in attorneys' fees and costs and, then within sixty (60) days from the date this case is returned to the District Court or otherwise closed at the appellate level, Plaintiffs shall file a motion for supplemental attorneys' fees and

costs, Defendants shall have twenty-one (21) days to oppose, and Plaintiffs shall have fourteen (14) days to reply.

4.2. In the event the Supreme Court grants Defendants' pending Petition for a Writ of Certiorari and affirms judgment in Plaintiffs' favor on some but not all claims appealed, then:

4.2.1. The parties shall have thirty (30) days from the date this case is returned to the District Court or otherwise closed at the appellate level to reach agreement on total attorneys' fees and costs to be paid. If the parties reach agreement, they shall submit a proposed order to the Court that includes the agreed upon amount and payment deadline.

4.2.2. If the parties cannot reach agreement as specified in Paragraph 4.2.1. above, then then within sixty (60) days from the date this case is returned to the District Court or otherwise closed at the appellate level, Plaintiffs shall file an amended motion for attorneys' fees and costs, Defendants shall have twenty-one (21) days to oppose, and Plaintiffs shall have fourteen (14) days to reply.

4.3. In the event the Supreme Court grants Defendants' pending Petition for a Writ of Certiorari and reverses judgment in Plaintiffs' favor on all claims appealed, then:

4.3.1. Defendants shall have no obligation to pay attorneys' fees and costs unless by subsequent agreement or order.

4.3.2. The parties shall not be bound or prejudiced by any previous agreement on attorneys' fees and costs.

4.4 The parties agree that the Defendants are under no obligation to pay any sums to Plaintiffs for attorneys' fees or costs unless and until the circumstances set forth above in Sections 4.1 or 4.2 occur as set forth therein or unless otherwise ordered by the Court or agreed upon by the parties.

IT IS SO ORDERED.

Dated: 9/6/24


Honorable Robert C. Chambers
U.S. District Court Judge